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TECHNOLOGY CENTER 3600

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In re Application of	:	DECISION ON RENEWED
Mark E. Abdella et al.	:	PETITION TO WITHDRAW
Application No. 10/026,670	:	HOLDING OF
Filed: December 21, 2001	:	ABANDONMENT

For: REVERSIBLE DOOR HAVING MORTISE HARDWARE

This is a decision on Applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on June 7, 2005.

The petition is **GRANTED**.

A review of the file record reveals that a Final Office action (herein after referred to as Office action) was mailed to applicant on June 4, 2004. Since a response was not received before the expiration of the six-month statutory period for reply to the Office action, the application was held abandoned, and a Notice to that effect was mailed on December 22, 2004.

Applicant's petition indicates that the Office Action mailed June 4, 2004 was never received.

There is a strong presumption that the Office communication, properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating that the Office communication was not received by the practitioner;

- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date at and around September 4, 2004. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993).

Practitioner submits a statement that the above-noted Office Action was not received. Practitioner attests to the fact that a search of the file jacket and docket records indicates that the Office Action was not received. Applicant's petition provides a copy of the docket record showing all responses due by practitioner's office between the dates of August 22, 2004 and September 18, 2004. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.



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KJD/js: 8/17/05